

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4067/P1dn

RLR:jld:ch

November 21, 2001

JoAnna, Roy, and Don:

In the interest of completing a draft this week, I held off on submitting the following questions and comments. Please let me know if you would like to address any of these issues in a redraft or with amendments.

Explosives, destructive devices, and weapons of mass destruction:

1. As we discussed I added a prohibition against activities related to components of destructive devices and components of weapons of mass destruction at proposed s. 947.07 (2) (d). In defining "device component" I followed the approach currently used to prohibit activities related to drug paraphernalia.
2. I added a definition for "incendiary." I did not add a definition of "incendiary device," because the definition of "destructive device" covers an incendiary device. "Destructive device" covers a device that contains an incendiary and is designed or configured to cause serious bodily harm, death, or property damage. I think it would be redundant to define "incendiary device" separately and list "incendiary device" under the definition of "destructive device."
3. As requested I modified the definitions of "destructive device" and "overpressure device" to include devices that are capable of causing property damage without assigning a minimum value to the property damage. Using property damage as a prohibited result in conjunction with making prohibitions related to explosives and destructive devices strict liability crimes, results in the draft covering a variety of innocent and relatively harmless activity. For example a person who inadvertently mixes two cleaning supplies in a bottle, thus creating an overpressure device, is guilty of a Class C felony if the overpressure device fractures and leaks cleaning agents on a library book. I think that either eliminating the property damage result or placing a minimum value on the property damage will tighten the prohibition sufficiently to eliminate penalizing some or the more innocent and harmless activity.
4. The crime of interfering with disarmament of explosives that is created in the bill applies to persons who interfere with disarmament of explosives or of a destructive device, but does not cover persons who interfere with disarmament of a weapon of mass destruction. Should it?

Name changes:

I did add adoption to marriage and divorce as exceptions to filing a name change under s. 786.36 (4). Without the exception for adoption, s. 786.36 (4) conflicts with provisions allowing a name change under s. 48.94, regarding provision of a new birth certificate for an adoptee, and s. 69.15 (2). I also added an exception for a name change under s. 69.15 (4m), which allows one change of name for an infant without a court order.

Financial institutions:

As requested, the bill adds telegraph companies to the definition of “financial institution” for the provisions related to subpoenas for depositor account information and for the prohibitions against making false statements to financial institutions. The definition of “financial institution” at 31 USC 5312 (a) (2) lists 26 items. Many these 26 items are either incorporated in the definition in this bill or are federally controlled entities. However, the entities I cited in the note for LRB-4081/P1 were just examples, so you may wish to consult the federal definition for the full list of entities covered under the federal definition.

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